



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,740	02/22/2002	Irwin Kotovsky	KOTOV-14	8291

7590
Ansel M. Schwartz
Suite 304
201 N. Craig Street
Pittsburgh, PA 15213

02/15/2007

EXAMINER

CARIASO, ALAN B

ART UNIT	PAPER NUMBER
----------	--------------

2885

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/084,740

Applicant(s)

KOTOVSKY, IRWIN

Examiner

Alan Cariaso

Art Unit

2885

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,7-11,13-15,17 and 18 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-3,7-11,13-15,17 and 18 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 07 December 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Receipt of applicant's response filed December 8, 2006 is acknowledged.
Claims 1-3, 7-11, 13-15, 17 and 18 are pending. Claims 1, 13 and 15 are amended.

Drawings

2. The drawings were received on December 7, 2006. These replacement drawings are not approved for the objection provided below.
3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the opening through which the socket extends (claims 1 and 15) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. It is noted that no drawings prior to the replacement drawings were filed in applicant's response of August 22, 2005 that remarked of submitted drawings (record shows no receipt of drawings) that address this objection made in the Office Action of March 18, 2005.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 7-11, 13-15, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over HUTAIN (US 6,095,671) in view of GOEBEL (US 2,625,646).

6. In regards to claims 1-3, 11, 13-15, 17 and 18, HUTAIN discloses an apparatus (figs.1-3) for lighting a room from the room ceiling comprising: a first gimbal ring assembly (302, fig.3, col.11, lines 14-44 and col.14, lines 64-65) which holds a first lamp (col.11, lines 35-38); means (208) for lighting a first lamp (174c, fig.2D) and at least a second lamp (174c, fig.2D) which holds the second lamp (174c) and one transformer (208-fig.2D, col.14, lines 60-62) electrically connected to the first and second lamps (174c), the first and second lamps (174c) being either a low voltage or a line voltage

Art Unit: 2885

(col.10, lines 13-14); and a housing (box 108, trim housing 120,122) for holding the first and second lamps (174c), the housing (108,120,122) having an outer surface (108) inherently made of at least synthetic, the housing (108,120,122) having a first wall (fig.1), a second wall in spaced relation opposing and in parallel with the first wall (fig.2A), and as a box (col.5, lines 59-62) has a third and fourth walls connected to and in perpendicular relation with the first wall and second wall and the fourth wall is in spaced relation and in parallel with the third wall, the bottom of the first, second, third and fourth walls defining a plane (ceiling 4, fig.2A); wherein the housing (108,120,122) includes an interior (120,122), and an outer layer (108) positioned about the interior (120,122), the outer layer (108) having the outer surface (108), the outer layer (108) inherently made of synthetic; wherein the housing (108,120,122) has a rectangular shape (fig.1, or "box" col.5, line 59); wherein the housing (108, 120, 122) is semi-recessed or recessed (figs.1-3) from the ceiling (4); wherein the lighting means includes a lamp socket (172, fig.2A) for holding the lamp (174) and the housing (108,120,122) includes a metal heat plate (134, figs.1B, 2A, 4C, 4D, 5B, column 12, lines 38-41 states that "baffle plate 134 ... of sheet metal") disposed adjacent the housing top (col.5, lines 63-67) having an opening (135) through which the socket (172) extends, the metal heat plate (134) transmitting heat away (column 8, lines 45-49 states "cooling fluid may be drawn in by the fan into the plenum, warmed as it passes over mechanical elements of the assembly and the lamp... thereby cooling the lamp and the assembly" as illustrated by air current arrows in fig.2A) from the lamp socket (172), given that metal plate (baffle 134) is connected to metal socket plate 141 (col.6, lines 21-28) secured to lamp socket

Art Unit: 2885

172 (col.7, lines 23-25) and the heat generated by lamp 174 is convected (col.7, lines 31-33) and also capable of being conducted in the metal plates that include connected plates 141 & 134 towards the convection caused by the fan, an inherent thermodynamic phenomena; wherein the transformer (208, fig.2D) is integral to and attached adjacent the housing (108,120,122); and given the lighting apparatus, HUTAIN provides the steps of placing the outer layer (108) about an interior made of at least metal (col.5, lines 49-50), and introducing a lamp socket (174,174c) connected to a transformer (208, fig.2D, col.10, lines 20-25) adjacent the housing (108,120,122) for either a low voltage or line voltage lamp (col.10, lines 13-14); placing and adjusting (fig.3) a yoke (eyeball 304) in the housing (108,120,122) for holding the lamp (174c) in the housing (108,120,122).

7. However, HUTAIN does not disclose: a second gimbal ring assembly (claim 1); mitered, butted or overlapped corners of the first, second, third and fourth walls (claim 7); the outer layer being formed of fixed, interchangeable or removable plates regressed, flush or protruding with respect to the housing circumference that contact the first to fourth walls (claims 8-10); the outer layer made of wood, plastic, glass or marble (claim 15).

8. In regards to the second gimbal ring assembly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to duplicate the first gimbal ring assembly (fig.3) of HUTAIN to include a second assembly, since it has been held that a mere duplication of working parts of a device involves only routine skill in the art. One would have been motivated to duplicate the gimbal ring assembly to

Art Unit: 2885

hold and adjust the direction of each of the plural lamps (174c) in HUTAIN in order to selectively direct illumination on different plural areas for plural persons or objects using light in the room being illuminated. In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

9. GOEBEL teaches: the first, second, third and fourth walls (1) have corners (1c, fig.10) which are mitered, butted or overlapped (col.4, lines 45-49); the outer layer (5,9) is formed of plates (5,9) that contact the first, second, third and fourth walls (col.4, lines 37-45); the plates (5,9) are regressed, flush (figs.13,16) or protruding (fig.9) with respect to the housing circumference (1); the plates (5,9) are fixed, interchangeable or removable (col.4, lines 44-45,50-51,68-75); and the outer layer (5,9) of the housing made of at least plastic or glass (col.4, lines 63-65 or lines 50-75).

10. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the lighting fixture assembly of HUTAIN to include the types of housing construction as taught by GOEBEL in order to protectively house the plural lamps and allow selective removal of the outer plates to facilitate gaining access to the internal lamp and associated electronic parts maintaining continued operation.

Response to Arguments

11. Applicant's arguments filed December 7, 2006 have been fully considered but they are not persuasive. Applicant argues that HUTAIN fails to teach or suggest anywhere the baffle plate 134 has anything at all to do with heat transmission, that Hutain specifically teaches that a fan is used to provide cooling, the alleged only

Art Unit: 2885

teaching in regard to controlling heat in Hutain, that nowhere does Hutain teach that the baffle plate is metal, or that the baffle plate serves as a heat plate, or that the baffle plate is in contact with the housing top, or that the metal heat plate transmits heat away from the lamp socket.

12. In rebuttal to the above argument, further underlined passages in the rejection above directs attention HUTAIN disclosing such metal plate and by inherent thermodynamic principles would enable such heat conduction to define at least the metal baffle (134) of HUTAIN as an adequate metal heat plate as claimed. The claims are not limited to further cooling by a fan, but with HUTAIN having at least metal plates about the lamp socket, heat conduction is inherent or capable by thermodynamic principles and further facilitated by heat convection from forced/compressed airflow driven by the fan.

13. In regards to GOEBEL, applicant states: that GOEBLE is totally silent in regard to heat transmission; that GOEBLE teaches a circular ballast housing, supporting the fluorescent lighting 61, and not the flood lamp 64; and argues that because there is no teaching or suggestion of any type of transformer, there is no teaching or suggestion of a low voltage or a line voltage lamp, and there is no teaching or suggestion of a transformer that is used in conjunction with the low voltage or line voltage lamp. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references

themselves or in the knowledge generally available to one of ordinary skill in the art.

See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

14. In this case, GOEBEL teaches: the first, second, third and fourth walls (1) having corners (1c, fig.10) which are mitered, butted or overlapped (col.4, lines 45-49); the housing outer layer (5,9) being formed of plates (5,9) that contact the first, second, third and fourth walls (col.4, lines 37-45); the plates (5,9) being regressed, flush (figs.13,16) or protruding (fig.9) with respect to the housing circumference (1); the plates (5,9) being fixed, interchangeable or removable (col.4, lines 44-45,50-51,68-75); and the outer layer (5,9) of the housing made of at least plastic or glass (col.4, lines 63-65 or lines 50-75).

The types of housing construction and materials are taught by GOEBEL suggests to protectively house the plural lamps and allow selective removal of the outer plates to facilitate gaining access to the internal lamp and associated electronic parts maintaining continued operation.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. ALGER (US 3,702,928) shows a transformer (50) fastened to enclosure (30, fig.6) providing low voltages to line voltage lamps (38). MILES JR (US 4,518,896) shows transformer (19) mounted to top wall (16) of housing (11) rated to accept 120 volt line voltages and connected to low voltage light bulb (120 volt) pivotally mounted by a gimble assembly (fig.1) rotatable on dual axes. USHER (US 4,751,627)

Art Unit: 2885

shows plural spaced low-voltage lamps (MR-16) universally pivotally mounted in housing (32-34, figs.1-3) and each having a corresponding transformer (272, figs.11-13).

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

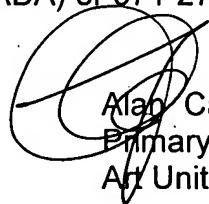
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Cariaso whose telephone number is (571) 272-2366. The examiner can normally be reached on 9-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Lee can be reached on (571) 272-7044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2885

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Alan Cariaso
Primary Examiner
Art Unit 2885

February 12, 2007
AC